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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,594	08/01/2003	Gary Weiss	03-12184	4320
25189	7590	03/31/2005	EXAMINER	
CISLO & THOMAS, LLP 233 WILSHIRE BLVD SUITE 900 SANTA MONICA, CA 90401-1211			NOLAND, KENNETH W	
			ART UNIT	PAPER NUMBER
			3653	

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/632,594	Applicant(s) WEISS ET AL.	
	Examiner Kenneth W Noland	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 7, 8, 10 and 13-15 is/are rejected.
- 7) ☒ Claim(s) 2-6, 9, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03-24-05</u> | 6) <input type="checkbox"/> Other: ____ |

Art Unit: 3653

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 13-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. **In regard to claim 13, lines 5,6 it is noted that the top housing moves with respect to the bottom housing. Through the specification it is mentioned that only the face plate rotated to effect the movement of the novelty portions*. There is no basis in the specification for the top housing moving with respect to the bottom housing. Clarification is required and new matter is not permitted. In regard to claim 14 on line 3, it is mentioned that the bottom housing has a dispensing orifice. This also has no basis in the specification and clarification is required and new matter is not permitted. If the deficiency is corrected in claim 14, then this claim would be considered allowed.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 7 recites the limitation "** said top housing portion**" in *line 3**. There is insufficient antecedent basis for this limitation in the claim. Only a top housing is recited, and not a top housing portion. Correction is required and if corrected, then this claim would be considered allowed if rewritten in independent form.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Coleman et al in view of Nakamoto et al. Coleman et al shows in figure a dispenser having a top 10, bottom 31 and a plate(face plate) 23, rotatably coupled to the container defined between the top and bottom housing, which when rotated would move or agitate the articles 16 within the container. Note the aperture 24 within the faceplate 23 to allow an article to pass or extend there through**. Note also the defined container having an orifice 26 to dispense the articles. To provide that Coleman et al's articles would comprise novelty items, would be obvious not only as a mere choice of utility to so dispense any other desired article but, Nakamoto et al discloses the desired use of other articles as tokens 40 (novelty items) to be dispensed to effect dispensing of a variety of articles.

7. Claims 1, 8, 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Belokin, Jr. in view of Nakamoto et al. As claim 13 would be understood, Belokin, Jr. shows in figure 7 a dispenser having a bottom housing 112, top 140 and a plate(face plate) 100. The top or the faceplate could be rotated to effect movement or agitation of an article when the article is to be dispensed. The bottom and top would

form a container.. Note the aperture 108 within the faceplate to allow an article to pass or extend there through. Note also the dispensing orifice(s) 120, 144, in the defined container, to dispense the articles. To provide that Belokin, Jr.'s* articles would comprise novelty items, would be obvious not only as a mere choice of utility to so dispense any other desired article but, Nakamont et al discloses the desired use of other articles as tokens 40 (novelty items) to be dispensed to effect dispensing of a variety of articles.

8. Claims 2-6, 9, 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth W Noland whose telephone number is (703) 308-3200. The examiner can normally be reached on Monday-Thursday, each week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on (703) 306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


KENNETH W. NOLAND
PRIMARY EXAMINER